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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,868	04/21/2004	Diane T. Stephenson	PHA 42620.1 (01380/1/US)	5875
321	7590	07/30/2007		
SENNIGER POWERS ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102			EXAMINER WANG, SHENGJUN	
			ART UNIT 1617	PAPER NUMBER
			NOTIFICATION DATE 07/30/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspatents@senniger.com

Office Action Summary	Application No. 10/828,868	Applicant(s) STEPHENSON ET AL.	
	Examiner Shengjun Wang	Art Unit 1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections 35 U.S.C. 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujimoto et al. (US 6,291,523), Carter et al. (US 6,034,256, IDS), Talley et al. (US 5,466,823, 5,633,272, 5,932,598, IDS), Graneto (US 5,521,207, IDS), Ducharme et al. (US 5,474,995, ~~IDS~~), Dube et al. (WO 98/03484, IDS), Black et al. (WO 00/24719, IDS), and Gilbert et al. (US 6,267,980).
3. The claims are directed to concomitant administration of a COX-2 selective inhibitor and a calcium ion channel modulator for the treatment of stroke.
4. Fujimoto et al. (US 6,291,523), Carter et al. (US 6,034,256, IDS), Talley et al. (US 5,466,823, 5,633,272, 5,932,598, IDS), Graneto (US 5,521,207, IDS), Ducharme et al. (US 5,474,995, IDS), Dube et al. (WO 98/03484, IDS), and Black et al. (WO 00/24719, IDS) as whole teaches that selective COX-2 inhibitors in general, and the recited compounds herein in particular, are known to be useful for treatment central nervous system damage resulting from stroke, ischemia and trauma. See, e.g., US 5,932,598; col. 2, line 63 to col. 3, line 12; US 6,034,256 col. 3, line 58 to col. 4, line 48. Those compounds may be formulated into a variety of dosage forms suitable for oral, parenteral, or topical administration. See, columns 81-83 in 5,932,598; col. 14, line 1, to col. 15, line 10. Specifically, Fujimoto et al. ('523), teach the

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phenylacetic acid compounds as recited in claim 22-23, and 34 as selected COX-2 inhibitors, See, the abstract, col. 2, lines 1-25, and the claims, claim 26 in particular. Carter et al. teaches the benzopyran compounds (claims 10-11 and 33) as selective COX-2 inhibitors, see, the abstract, col. 3, lines 58 to col. 4, line 42. Talley et al. teach celecoxib (5,466,823, col. 53, line 15), valdecoxib (5,633,272, col. 22), and parecoxib (5,932,598, col. 49) as selective COX-2 inhibitors; Ducharme et al. (5,474,995, col. 27, compound 23) teach Refocoxib; Dube et al. (WO 98/03484, page 30) teach etoricoxib; Graneto (US 5,521,207, col. 43, example 1) teaches Darecoxib; and Black et al. teaches the compound recited in claim 32. See, particularly, page 79, lines 28-29.

5. Gilbert et al. teaches a method of treating patients with stroke or cerebral ischemia comprising administering to the patient a composition comprising verapamil. See, particularly, claim 23.

6. The references do not teach expressly the concomitant administration of selective COX-2 inhibitor and calcium channel blocker for treatment of stroke.

However, it would have been obvious concomitantly administer a COX-2 selective inhibitor and a calcium channel blocker, such as verapamil, to a patients in need of treatment of stroke because both selective COX-2 inhibitor and verapamil herein are known to be useful for treatment of stroke.

It is prima facie obvious to combine two compositions each of which is taught in the prior art to be useful for same purpose in order to form third composition that is to be used for very the same purpose; idea of combining them flows logically from their having been individually taught in prior art. See In re Kerkhoven, 205 USPQ 1069.


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The evidence presented by the reference shows that the subject matter as claimed is a combination of known components selected for their known properties as analgesics and/or anti-inflammatory agent. A claim which unites elements with no change in their respective functions to yield a predictable result is not patentable in the absence of secondary considerations.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shengjun Wang whose telephone number is (571) 272-0632. The examiner can normally be reached on Monday to Friday from 7:00 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan, can be reached on (571) 272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


SHENGJUN WANG
Primary Examiner
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